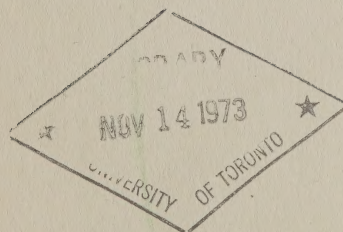


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THE FOURTH ANNUAL REPORT OF  
THE ADVISORY COMMITTEE ON LEGAL AID IN ONTARIO





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THE ADVISORY COMMITTEE ON LEGAL AID IN ONTARIO

TO: THE HONOURABLE DALTON BALES, Q.C.,  
Minister of Justice and Attorney  
General for Ontario

This is the fourth annual report of the Advisory Committee on Legal Aid. Our report this year, in addition to commenting on the Fourth Annual Report of the Law Society for the year ending March 31st, 1971, will also include a brief account of our activities from March 31st, 1971, until this date, as our report last year dealt with our activities until March 31st, 1971.

FOURTH ANNUAL REPORT OF THE LAW SOCIETY

1. The fourth annual report of the Law Society being the report for the year ending March 31st, 1971, was received by this Committee during the month of January of this year. In our opinion, it complies with section 10 of The Legal Aid Act, containing a full statement of the nature and amount of legal aid rendered, a statement of receipts and disbursements of the fund, a copy of the auditor's report and general






information as to the working of the Act and Regulations.

2. The Committee does not propose to comment on each item of the Report of the Law Society separately. The report is clear and in our view the problem areas of the plan have been dealt with frankly. It is our opinion that the report is reassuring that the administration of the plan is carried out in an honest and responsible manner.

3. Since our last report to you, the Committee has been concerned with two general areas which have been the subject of some controversy. We have attempted to learn something of the ambit of student activity under the legal aid programs throughout the province and in addition we have tried to follow up last year's concern with the question of whether or not the plan was reaching those persons who can properly be referred to as being poor or in poverty.

#### Student Legal Aid Activity

4. The Law Society in its report has touched upon student activities and, in our view, we must



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also do so as no report on the "operation of the scheme" is complete unless the service to the public rendered by students under the plan is dealt with so that you will know of its scope and value. In addition, it appears there has been a great deal of student activity not specifically provided for under the regulations passed pursuant to The Legal Aid Act and we feel that we must mention this for perhaps three reasons.

First, we have formed the opinion through information we have received that a good deal of the student activities is identified by the public as part of, or the responsibility of, those charged with the operation of The Ontario Legal Aid Plan.

Secondly, while such activities offer a wide range of service beneficial to the public, there are also problems of which you should be made aware, particularly if such activities are considered to be the responsibility of The Ontario Legal Aid Plan.

Thirdly, it may be that the activities at university law schools in relation to legal aid should be considered from time to time as revealing views with





respect to the nature of legal aid that is required in this province and the efficiency of the present scheme in providing the public with the service which the Act anticipates.

5. By Section 20(4) of The Legal Aid Act, 1966, there may be established in accordance with the regulations student legal aid societies. Regulation 74 of the Ontario Regulation 257/69 provides that a dean may apply to the Legal Aid Committee for its approval of the establishment and operation of a student legal aid society for law students in his course. Under the regulation, approved student legal aid societies have been established at the law schools at the University of Toronto, York University, the University of Western Ontario, the University of Windsor, Queen's University and the University of Ottawa.

Regulation 77 of the Ontario Regulation 257/69 provides that an area director may, (a) arrange with a student legal aid society in his area for assistance to duty counsel and panel solicitors in rendering legal aid services; and (b) where for other than financial reasons a person has been refused a legal aid certificate in a matter under Section 13 of



the Act, refer such person in respect of such matter to a student legal aid society in his area having requisite approval to deal therewith. The Regulation, it appears, sets down the jurisdiction of student legal aid societies within the framework of the Plan. It is important, in our view, to recognize that student legal aid societies are subject to the regulations under The Legal Aid Act, and to the approval, supervision and control of the Legal Aid Committee of the Law Society of Upper Canada and the Dean of the Law School.

6. During the summer of 1971 it was learned that students at law schools throughout Ontario had received federal funds under the Opportunities for Youth Program to initiate and carry out a variety of projects, both research and service oriented, in various parts of the province. Most of these projects were known under the umbrella term "legal aid" and none of them had been approved by the Law Society. In addition, notoriety given to the views of some recently associated with student legal aid societies favouring other plans has caused us concern as to whether or not the services offered by student legal societies are in competition with those offered under





the Plan or are they better described as being complementary to it.

In an effort to determine what was being done by student legal aid societies, in the fall of 1971 we visited with faculty advisors and students active in legal aid societies at Osgoode Hall, the University of Toronto, the University of Western Ontario, the University of Windsor; while visits to the Law School at Queen's University and the University of Ottawa were conducted by our chairman alone. In addition, we have received a great deal of written material published by student legal aid societies and by the Law Society in relation to student activities and, of course, we have had meetings with the Provincial Director of Legal Aid, members of his staff, members of the Law Society's Legal Aid Committee and Mr. Fairbairn.

We do not propose to deal at length with the organization of the student legal aid societies at each of the law schools, save to say that each is under the general supervision of the dean of the law school and a responsible member of staff. In some cases a Director, who is a practising



lawyer, has been appointed. In addition, student legal aid societies rely on the more senior and experienced students for supervision. The societies are organized so as to ensure continuity of service and control to achieve efficiency in their operation and to protect the interests of the client.

7. We were pleased to find that at some of the university law schools there was a very close relationship with the Area Director and with the local Bar Association. This relationship in such cases ensured additional supervision when it was needed and also provided for student participation in areas which they otherwise ought not to enter. We recommend that special consideration be given by deans of law schools and the Law Society to developing such relationship.

8. Speaking generally, in each instance our inquiries revealed that the object of the student legal aid societies was to provide service for those who could not pay and to render legal service to the community. In each instance the person served was made aware that student service was being provided and a document was executed to this effect. Further, we were satisfied that the student knew and felt the





need of supervision to assure the quality of the service which they sought to offer and we were impressed with this view.

9.           Turning first to those activities which fall strictly within the provisions of the regulation, it is our view that the student legal aid societies have performed a valuable service to the public of this province and that there are indeed many services required which can properly be performed by students under appropriate supervision. From the records which have been produced to us it is apparent that a broad range of matters have been dealt with by student legal aid societies within the regulation. These include advice and appearances in summary conviction matters under the Criminal Code, Liquor Control Act, Highway Traffic Act, Narcotic Control Act and advice and appearances in some civil matters including landlord and tenant, debtor and creditor disputes, family matters, private prosecutions, matters relating wills and estates, welfare matters, inmate problems, some matters arising in connection with real estate and, in addition, general advice including questions relating to workmen's compensation, immigration, etc.

10.           We now turn to the other programs which



are carried on by student legal aid societies. It is our purpose to point out to you the nature of the services being offered and perhaps say something on some other aspects of the program.

(a) At most of the student legal aid societies which we visited, a program offering service to the community was in existence. At one of the universities service has been offered through twelve clinics - at different times - upon invitation at locations operated by social agencies in the city. These included clinics at welfare centres, day care centres, addiction research centres, community halls, neighbourhood information posts, a 'Y' youth program and drug centres. At these centres the clinics reported that their work was mainly advice in relation to welfare, family matters, landlord and tenant problems, and frequently questions relating to minor offences.

At another university a community law office, shared with medical students and volunteer doctors from which legal services were offered to the community is located in a part of that city thought to be an area where needy people live. During the past summer comparable services were offered in other areas of that city where similar circumstances were thought to exist. While many people find their way





to the community law office without being referred there by the Area Director, the policy is that such persons are referred to the Area Director's office so that those who require the services of a lawyer and qualify for legal aid, may receive attention according to their needs. A good deal of the service provided in the community law office is in cases referred there by the Area Director and in any event there is a heavy emphasis on supervision.

(b) Student legal aid societies have carried out work in educational programs for new Canadians conducted at a community college. In this regard they have given talks on the laws that one might expect would be of concern to this audience, such as laws concerning housing, hospitalization, medical services, workmen's compensation, welfare and other services.

(c) As a community service, a student legal aid society established a clinic of a group of Italian speaking students to work in a community in that city where many Italian speaking people reside. Assistance was given by offering information on legal matters and occasionally assisting before welfare and other tribunals.

(d) In addition to six community projects comparable to those referred to above, a university has established a community legal service office as



a part of its course in law. This training program is one semester in duration. The program is carried on from an office in a community in the city where the university is located and is under the direction of a professor who had previously practised law. The emphasis in this course is in part the question of how best to deliver legal services to the community.

We are advised that other universities are carefully regarding the development of this program and it seems probable that comparable programs will be established as course credits.

(e) Now operating under the plan is a program in conjunction with a course in Family Law under the direction of the professor charged with that subject by his university whereby senior students appear in the Provincial Court, Criminal Division, to assist duty counsel in cases under the Juvenile Delinquents' Act and on days when criminal cases are heard. In addition, students attend at the Provincial Court, Family Division, to assist persons involved in proceedings under the Deserted Wives and Children's Maintenance Act. Extensive arrangements have been made through the Area Director's office to carry out this scheme and to assure that if the services of a





lawyer are required by persons entitled to legal aid, that need is fulfilled. We were advised by the Area Director that the courts in that area have found the service beneficial to the public.

(f) Another example of related student activity is that of an organization known as "inmate legal aid". This is a program concerned with assisting persons imprisoned in institutions in the area of the city where the university is located, which persons are unable to retain counsel and do not qualify for legal aid, who have appealed or who wish to appeal from their conviction or sentence. Cases reach this group through two sources; (1) through duty counsel appointed under The Legal Aid Act who attends the prisons, and (2) by letters directly from the prisoners addressed to the law school seeking assistance. The purpose of the program is to assist those who are not able to look to any other source for assistance. In discussions with the faculty member charged with the responsibility and direction of this group, he said it was their hope to aid the individual and to assist the court in these cases in which the prisoner has no counsel and must appear alone by preparing briefs for him and assisting him as best they can in the presentation of his appeal. This gentleman and other



members of his staff must supervise the work of the students. They are aware of the important limitations imposed upon student activity in relation to appeals in cases of indictable offences and they are continually concerned that they do not trespass in this area.

(g) A further example is a Consumer Complaint Bureau, financed by funds from the Opportunities for Youth program and operated by the student legal aid society at offices provided by the university. The program is further subsidized by newspaper advertisements which invite inquiries by the public in these matters. It appears that the service has become quite a busy one as telephone inquiries are answered and advice given by law students. We were seriously concerned as to the competence of students to offer this service notwithstanding the fact that they and their supervisors understood the danger of legal advice hastily given, or generally any advice given, on the basis of a telephone conversation.

11. Perhaps a simple explanation of what we have observed in the student legal aid activities beyond that delineated by the regulations is that some law schools are concerned with broader concepts of legal aid and community service and, further, of



finding a real role for legal aid in legal education and legal education in legal aid and so they have fashioned plans of their own. Perhaps the views of some of the men interviewed at the law schools explained this. For example, one stated to us that the trend at that law school was to free-up rigid legal training and allow students to concentrate on areas of interest, as urban problems and poverty law - that the legal aid programs allow field activity to supplant formal training. The faculty is still exploring how legal aid can be added to the curriculum in a meaningful way - meaningful in terms of legal education and service to the community.

At another university a professor charged with responsibility for student legal aid activities stated that the law schools have a major role in the community to advise people of their rights and ensuring them access to the courts. The programs in that area reflected his view.

At still another university we were advised that some members of the faculty there regarded legal aid solely as student activity and as playing no part in legal education. It was their firm conviction





that to be of value the constant surveillance of a very experienced and highly trained practitioner was required; that such activities should be run solely by the Law Society of Upper Canada, and that students should work in community centres but only under the supervision of practising lawyers paid by Legal Aid.

None of the universities had offered special study of the Ontario Legal Aid Plan. Nor was any special consideration being given to the education of specialists who are developing within the Plan such as Area Directors and officials charged with the public responsibility of its administration. We had hoped to find such special studies being conducted for, in our view, the expertise being developed by a few such as the Provincial Director, Area Directors, etc. ought to be drawn upon and available for teaching others who will one day assume similar important public duties in this public Plan.

12. We are satisfied that the public identify many student activities which are outside of the regulations as being part of the Legal Aid program under the Act and the responsibility of those charged with the administration of the Act. We reached this conclusion not only because of the close relationship of student legal aid societies as authorized by the Act and regulations, but also because it has been reported to us that the public



has sought the aid of students by communicating with Area Director offices and so have revealed confusion not only with respect to the responsible agency but in some cases with respect to work that should properly be done by a practising lawyer as opposed to a student.

Finally, we think that the similarity in the name must lead to the confusion we are concerned about. Reference need only be made to such names as the Ontario Legal Aid Society, Student Legal Aid Plan and Inmate Legal Aid.

13. From our inquiries we have concluded:-

(1) that the student legal aid societies acting both within and without the regulation have provided an important service to the public. In each of the law schools we were impressed with the enthusiasm of the students in seeking to serve the individual who cannot afford legal counsel and in assisting in bringing legal aid to the community. We expect that as the plan expands Area Directors who are presently maintaining a close liaison with student activities will be able to recommend to the Law Society and to you areas in which student participation should be considered.

(2) that there is a need for closer



co-operation between the law schools and the Law Society of Upper Canada so as to ensure that student programs do not permit unauthorized practice by students and that the public be so protected and assured that students be guided by the rules and the ethics of the profession.

Before offering their services to the public students should be made aware and understand particularly the importance of the limit of the licence which the public receive upon a professional person. To this end we recommend closer co-operation between the law schools and the Law Society of Upper Canada so that the responsibility of students and those who instruct them and counsel them in programs to be carried out by universities will be clarified.

Services offered by student legal aid societies may be in competition with those being offered under the Plan as, for example, may be the case in the Consumer Complaint Bureau previously mentioned.





(3) The students impressed us with their desire for supervision by practising members of the bar and we agree that such supervision is necessary.

14. Both the Law Society charged with the administration of Legal Aid under the Act in Ontario and the law schools are aware of these matters and we believe that through their resourcefulness they can be resolved to the benefit of the public.

15. We record our sincere appreciation to the deans, members of faculty and the students, Mr. Lawson and members of his staff and Mr. Fairbairn for their frank and sincere discussions with us in relation to the above matters.

In conclusion, it is the opinion of the Committee that students properly have a role to play in the Legal Aid Plan. We think it is important that the Law Society establish lines of jurisdiction and determine student rules of practice, and co-ordinate and control their legal aid societies. In our view, one of the main reasons why the Legal Aid Plan has been so successful is that it has been



sufficiently flexible to provide every type of legal service which may be required by anyone in the province regardless of the part of the province in which he lives. We feel that to co-ordinate student legal aid activity into the Plan would lend strength to it.

#### Legal Aid and the Chronic Poor

16. In our last report to you, the Committee focussed its attention on the problem of whether or not the plan was providing the service which you intend that the public should have, especially service to those persons who are referred to as the chronic poor. In August of 1971 at our request the Provincial Director of Legal Aid pursued the matters which we raised last year, and a memorandum was sent to each of the Area Directors in the province inquiring whether in his view a community legal centre or centres were required to meet the needs of the poor in his area.

Accordingly, we have set out in part some of the replies which were received. We were impressed with the informative and thoughtful approach shown by many of the Area Directors in



dealing with this problem.

17. From the various Area Directors,  
the following was remarked:-

(1) What Are We Doing?

'The Legal Aid Plan is almost certainly brought to the attention of all persons charged with criminal offences. If they are in custody when brought before the Provincial Court Judge, duty counsel is on hand. If they are not in custody, notices are posted announcing the availability of duty counsel, and the Judges have almost invariably asked the accused if he wished advice, if he appears without counsel. We think that nothing more can or needs to be done in this field.

The social agencies here, including the Central Information Service, have been made familiar with the Plan, and it has been assumed that workers encountering legal problems would advise the person concerned to seek assistance. It is a fact that many applicants for Legal Aid are referred by social workers.

Lawyers who are consulted by persons in need, who are entitled to the benefit of the Plan, are assisted in their application. It can, we think





be assumed that some applicants, who had some vague knowledge of the Plan, would more readily consult their solicitor than heretofore.

Finally, there has been considerable publicity in the newspapers about the Legal Aid Plan, and, one would assume, by word of mouth.

What We Should Not Do.

Legal Aid is expensive. It should not be forced on people. It should not be unnecessarily convenient. Lawyers should not be employed to do work that social workers can do just as well, and it should not overlap existing satisfactory social services. A branch office for legal aid should be set up if it is unduly inconvenient or expensive for applicants from the area to attend at the main office, but not just to save the time and bus fare for a short ride downtown. A large proportion of the questions which would be asked of duty counsel in a "store front" office, could be answered by a knowledgeable social worker, and some screening can and normally should be done before a lawyer is consulted. We should not encourage the slogan - "Demand your legal rights. Consult us, not your welfare worker."



What Else We Should Do.

Having said all this, there are people who have valid legal rights which are being ignored, and who are too ignorant or oppressed to seek help under the Legal Aid Plan. Unfortunately, many of these rights involve legislation with which lawyers have been given no sufficient legal education and are consequently unable to deal with it expeditiously. Some examples are the General Welfare Assistance Act, The Unemployment Insurance Act, The Employment Standards Act, The Consumers' Protection Act. These statutes are being interpreted by persons who have not had the benefit of a legal training, and many of them provide for procedures where lawyers can and should play an important role. We have already written to the Provincial Director recommending a series of lectures for those lawyers interested in this field."

(ii) "Very many of the problems can be handled rapidly by knowledgeable duty counsel. The difficulty is with the description 'knowledgeable' because very few lawyers know anything about the details of the social legislation which most nearly touches the truly poor people. We believe there is a very large field in which the profession can interest itself. For instance, there are boards



of review dealing with the rights to general welfare and the decision of the boards are quoted as authority by welfare administrators and there is almost no one to question the validity of those decisions.

The Bar Admission Course conducts a course of study on creditor's rights, but teaches nothing on debtor's rights. We therefore strongly recommend that a series of lectures be organized dealing with this field of law and with the following, amongst other suggestions:-

- Unemployment insurance reviews
- Disability and other pension benefits
- Family benefits under the Family Benefits Act
- Workmen's Compensation
- General welfare
- Debtor's rights
- Landlord and tenant (residential properties)
- Employment Standards Act

It is not likely that such a course would attract a great number of participants but to our minds it is essential that it be given to interested persons throughout the Province."

(iii) "In our area for the past year, a Duty Counsel has been attending at a neighbourhood centre one night a month. Appointments are arranged by the centre for our Duty Counsel. This centre operates from the basement of a branch library and its director is a social worker on loan from The Family and Children's Services. The rest of the





staff consists of a public health nurse, a librarian, another social worker and a volunteer neighbourhood representative. All staff are paid by their respective disciplines. This centre is a pilot project and if it proves successful, more centres of this type will open here and, of course, Legal Aid will be asked to participate. Our Duty Counsel report monthly and on the basis of the need established by these reports the program is continuing.

We have also been contacted by a Community Action Centre which operates in a 'chronic poor' area here. We have arranged with the centre to provide Duty Counsel in the evening when necessary - either to attend at the centre or to be on call at his home for consultation. During the day referrals are made directly to our office.

Our largest hospital also has expressed a desire to investigate the sending of a Duty Counsel to it, particularly to assist the senior citizens. This still is being discussed as a need has not been established.

With the co-operation of The Law Association a speakers' panel has been developed.



When groups such as The Mothers' Allowance Improvement Organization, Senior Citizen's Discussion Groups or Neighbourhood Centre Discussion Groups wish a speaker on legal topics or legal aid, our office can be contacted to obtain a speaker. If lawyers are requested to speak to classes at the secondary schools this also is arranged. So far this month several groups have been provided with speakers and we expect that the demand will increase. We are pleased as this takes some of the speaking load from ourselves and also this is a good public relations program for the profession. A few years ago lectures were arranged for the public by The Law Association but these were discontinued because of the poor attendance. The speaker panel program appears to be meeting with more success.

Speaking engagements are undertaken on a voluntary basis and no payment is received. Those acting as Duty Counsel are paid the Duty Counsel rate.

The law students, as you are well aware, are branching out into many areas. Up to this time we have been involved with the Student Legal Aid Society and its program which includes part of the Family Court program. At a recent meeting with The Law Association at which the Dean, two professors



and I were guests the Association passed a resolution accepting in principle the proposal of a student neighbourhood centre. Further action will be considered after the trustees have considered the brief submitted by the law students to the Federal government. The trustees seem to be concerned about the extent of the services to be provided and the question of supervision."

(iv) "Earlier this year we received a request from representatives of the Student Council to have a lawyer attend at their institution. We met with some of the administrative and counselling officials and as a result have had civil duty counsel attend one afternoon a week for a twelve week pilot period. We are now assessing the results of this experiment and will then decide whether it should be continued, expanded or disbanded. The Campus is the successor to the old Adult Education Centre so that most of its students are adults and most of them are in financial difficulties of one form or another.

In addition I have become very heavily involved with the local Social Planning Council and, in fact, I am now serving as its President. The Council has a very vigorous Executive Director



and by reason of the fact that the University has a graduate school of social work there is a good possibility that there may be some neighbourhood service projects developing in the near future. We will be watching these events with interest and will likely seek to involve civil duty counsel with any team of neighbourhood workers.

One such project was launched during the past year and the local articling students formed an association to work in conjunction with the other workers. We do not know whether this arrangement will be continued during the coming year.

We are also looking forward to the opening of a Community Information Service under the auspices of the Social Planning Council and we envisage greater use of civil duty counsel through this service."

18. On the other hand, many of the replies did not reveal a similar approach and Area Directors particularly in rural communities felt that this type of service was necessary only in the larger urban areas.





19. In last year's report to you we commented on the pilot project in Ottawa, initiated by the local Area Director and authorized by the Law Society, to establish a community law office in a depressed area, manned by civil duty counsel, operating in the evening rather than during the day and made known to the people in the community by notices and announcements in the local community papers and on radio and television.

Lower Town East was selected as the site of the community law office in view of the fact that it had a higher rate of welfare recipients than any other area in the community and was undergoing a substantial physical change resulting from an extensive expropriation program. Many families were being uprooted as a result of this program and it was anticipated that numerous problems relating to expropriation would arise.

The project known as the "Lower Town East Pilot Project" was inaugurated on April 6, 1971, and ran continuously until June 30, 1971, operating Tuesday evenings from six to nine p.m. and Wednesday afternoons from two until five p.m.



During the Wednesday afternoon clinic, a "Community Service Team" consisting of representatives of various community social services and of social workers was present.

An excellent report on the success of this project was submitted to the Provincial Director of Legal Aid by the Area Director on July 1, 1971. This report showed that 138 people attended the clinic during its three month period of operation, 20% of whom were granted legal aid certificates, 50% of whom received advice, and the rest of whom were disposed of in various other ways.

The report contained the following analysis of the problems dealt with in the clinic.

"The 'classes of problems' are by no means exhaustive, but are by their very nature broad enough to include most, if not all, of the matters in dispute.

(a) Legal

(i)	Matrimonial.....	28.5%
	(Including divorce & separation)	
(ii)	Criminal Actions.....	5.0%
(iii)	Civil Actions.....	17.6%
	(not including the aforesaid and subsequent matters)	



(a) Legal (continued)

(iv)	Problems Relating to Personal and Real Property .....	4.2%
(v)	Estate .....	4.2%
(vi)	Access and Custody .....	3.4%
(vii)	Landlord and Tenant .....	10.9%
(viii)	Actions v. Federal & Provincial Boards (including Workmen's Compensation) .....	5.0%
(ix)	Debts .....	6.7%
(x)	Contracts .....	5.0%
(xi)	Motor Vehicle .....	2.5%
(xii)	Bankruptcy .....	1.7%
(xiii)	Sale of Goods .....	1.7%
(xiv)	General Advice .....	3.4%

(b) Social

(i)	Debts .....	5.9%
(ii)	Expropriation .....	17.7%
(iii)	Low Rental Housing .....	17.7%
(iv)	Marital .....	23.5%
(v)	Pensions .....	5.9%
(vi)	Advice Re Education .....	5.9%
(vii)	Advice Re Obtaining a Mechanic's Licence.....	5.9%
(viii)	Inspection of Books .....	5.9%
(ix)	Psychiatric help .....	5.9%
(x)	General Advice .....	5.9%





It is evident from the above that certain problems can be classified as legal and/or social. The determining factor as far as this report is concerned is into which category the attending duty counsel classified the problem. Of the 138 clients interviewed, 121 had legal problems while the remaining 17 had problems of a social nature."

A comment from one of the duty counsel who worked in the clinic was contained in the report and we include it in our report because we feel it may be of interest to you:-

"If the role of the lawyer on duty is also that of being a kind of father-confessor by lending a sympathetic ear or by giving advice in social, psychological or financial matters, then the lawyer's contribution becomes greater inasmuch as many of the problems are partly legal and partly in another field or fields and others may not touch upon the law at all.

I categorize the problems which we encountered as duty counsel as follows:-

- (1) Those where legal advice assisted satisfactorily.
- (2) Those where the problems are not substantially legal in nature.
- (3) Those where although legal in nature



the problem is so trivial as not to justify too much of a lawyer's time.

- (4) Those where the problems are financial in nature. These are the problems which are most frequent and in front of which we are most helpless, e.g. no money to pay rent.
- (5) Last, we have the problems of people who have sufficient funds and wouldn't qualify for Legal Aid.

You can see by the above, that a great deal of the interviews concern matters which could be effectively dealt with by someone else."

The report concluded with the following recommendations:-

"It is apparent from the Lower East Town statistics that the problems of the people are both of a legal and social nature. It would appear that a solicitor who is well informed of the community resources is the proper person to advise these people. It is a constant complaint of the needy person that they have been referred from one agency to another, without a solution to the problem.

Legal Aid clinics may help to overcome this problem. The statistics pointed out that not all the needy people are welfare recipients. We, therefore, cannot rely upon community agencies to direct people to the Legal Aid office.



The one question that cannot be answered is whether these people would get legal advice or attend at the Legal Aid office if a clinic was not available.

With respect, I would suggest we give to the needy people the benefit of the doubt, that they may not get proper advice if clinics were not available. The Ontario Legal Aid Plan can offer a still greater service to the people by use of these clinics.

May I recommend the following for the Ottawa-Carleton area:-

- (1) The establishment of permanent legal aid clinics.
- (2) That these clinics be on an evening basis only.
- (3) That they operate in various areas of the judicial district.
- (4) That only one clinic operate at a time.
- (5) That these clinics be staffed by barristers and solicitors of the Ontario Bar.
- (6) That the barristers and solicitors be paid as 'Duty Counsel' and subject to the provisions of the Legal Aid Act - Chapter 80, Statutes of Ontario, 1966, Schedule 4.
- (7) That the law students at the University of Ottawa be encouraged to assist at the clinics.
- (8) That the law students participate by way of an approved student legal aid project.



- (9) That the law students, while engaged at the clinics, be under the immediate supervision of the acting Duty Counsel.
- (10) That the law students be restricted to processing applications and are not to give advice to clients.
- (11) That the clinics use available space in the community, without charge."

We are impressed with the report of the Ottawa Area Director. His initiative and imaginative approach will, we think, be of great benefit to the Legal Aid Plan for he has produced an effective study of the needs of the people in that part of the Ontario community. We are aware that a constructive study was also done in the Hamilton area under the direction of the Area Director there and we hope that this type of re-examination of the needs of the areas will continue.

20. In last year's report to you the Committee recommended that the Law Society consider the use of a community law clinic as an experimental measure in the City of Toronto to be established in an area in which need is found to exist. We are pleased to report that, due largely to the success of the Lower Town East Pilot Project in Ottawa, the Law Society established four community law clinics





in June, 1971, operating in various locations in and about Toronto. At present, community legal services are being offered in twelve offices throughout Metropolitan Toronto, most of them operating in space available in the community and familiar to the residents of the area. In addition, there are presently five community legal aid clinics operating in Carleton County.

Statistics are not available as yet reflecting the use of clinics. Perhaps, based on the experience in Ottawa and what seems to be the case in some of the States of the United States of America, they will prove to be a valuable and necessary part of the plan. We are aware that Area Directors in other parts of the province have considered this aspect of legal aid service and, of course, we are aware that the needs of the Ontario communities differ and what is appropriate in one is not necessarily appropriate in another.

#### OTHER MATTERS

##### Social and Family Service Assessment

21. Last year's report to you commented on the delay and cost incurred by the necessity of



having social and family service assessments in cases where the applicant for legal aid was found to be on welfare. This problem has been alleviated to a great extent by the appointment in 1971 of an Assistant Director, Legal Aid Assessment, Department of Social and Family Services, whose responsibility is to provide greater liaison between local assessment officers and area directors.

### Divorce

22. We think that the Law Society has made important changes which will reduce the cost of divorce under the Plan and yet to a very great degree retain the underlying principles of the Plan. Briefly, the changes include modification in the criteria as to eligibility, a reduction in the tariff of uncontested divorce actions, and the development of a scheme (still subject to final examination) which we think is basically comparable to that which was proposed by this Committee last year. Under this scheme the eligible applicant may select the solicitor of his or her choice and if ancillary issues are resolved and the petition can properly proceed as an uncontested matter, the



solicitor will so advise the Area Director and the conduct of the proceedings will then be carried on from that office and ultimately by a civil duty counsel at trial. It is recognized that such a plan is not one that can be immediately adopted and that there are practical questions that are best resolved through testing by trial. We think the important thing is that the Law Society and those charged with the responsibility for the administration of the Plan have responded alertly to the need for change and we are confident that a sound solution will be developed for the problems in this area.

#### Legal Aid Criminal Appeals

23. We mentioned in last year's report a meeting of a committee headed by the Chief Justice of Ontario to consider the elimination of certain steps in current practice which might possibly be responsible for the delay in the presentation of legal aid appeals in criminal cases. As a result of that meeting, it was recommended that a Provincial Appeals Director be appointed to supervise appeals submitted to area legal aid committees under Section 14 of the Act. An appointment has been made and the incumbent has met with the Court. This office is an important one





and it is hoped that through it improvements can be achieved, including a reduction in the time between conviction and the hearing of appeals and the elimination of unnecessary costs particularly in the selective requirement of transcripts of the evidence for use in the appeals.

#### Education of the Bar in Poverty Law

24. We expressed the view in our report to you last year that the program of education in Ontario should include some instruction as to laws and plans which are designed to provide assistance to the public, including the poor. This field of law has received a great deal of attention during the past year, including a National Conference on Law and Poverty held in Ottawa last October under the auspices of the Federal Justice Department and attended by delegates from all parts of Canada. These questions were also considered at the National Law Conference which was convened by the Department of Justice of Canada and at which Mr. Lyle Fairbairn represented the Program Committee of the Law Society of Upper Canada in Legal Aid and made a substantial contribution to the discussions on related topics.



in our visits to the various law schools in Ontario, we were pleased to note that most of them offered courses and seminars on Law and Poverty, covering such matters as the delivery of legal services to the poor, landlord and tenant, legal aid, consumer credit, welfare legislation, housing, workmen's compensation, etc. We were also pleased to learn that the Law Society, under its Continuing Education of the Bar program, held a seminar this winter dealing with the problems involved in this field of law for lawyers already in practice.

#### Area Committees

25. We cannot stress too strongly the importance to the Plan of the Area Committees throughout this province. The interest of these men and women from the community and from the legal service is reflected by the continued service of persons originally appointed and the small turnover. We think that the province is indebted to these people who have shown great expertise in the questions they must deal with and have served energetically and without remuneration. We hope next year to give you



further information in terms of details of the obligations they assume in this role.

The responsibility of Area Committees is confined mainly to consideration of appeals from the refusal of Area Directors to issue certificates and to considering applications for legal aid on appeals. It is our view that with the development of the Legal Aid Plan the knowledge of the Area Committees can be drawn upon even more than is presently the case. These Committees have an understanding of the needs of the communities and can achieve solutions of which others might be incapable. Area Directors have the power under the statute to require the assistance of Area Committees with respect to questions they choose to direct to such Committees and we hope that proper advantage is taken of this power.

During the past year we observed an instance where a wise use was made of the Area Committee when by their intervention what might have been a breakdown in communication between the office of the Area Director and a student legal aid society was averted. We recommend that the full scope of the use of Area Committees be re-examined by the Law Society.



26. It is our view that the Legal Aid Plan with its present participation by the Bar, by the universities and student legal aid societies and with the implementation of community law offices and clinics, operates as efficiently and provides needed service to more people who cannot afford the cost of such service than other plans which we have been able to examine. It is significant that so many features of the Ontario Plan have been followed in other provinces.

27. We have enjoyed the complete co-operation of all those with whom we met in the law schools in Ontario and from those from whom we sought advice and information, particularly Andrew Lawson, Q.C. and his staff and Area Directors. We are hopeful that our discussions have been of some assistance in furthering meaningful dialogue and communication between the law schools and the Law Society. During the ensuing year we propose, as far as we are able, to visit those parts of the province we have been unable to visit and to pursue our consideration of the value of community law clinics and the new procedures in divorce.

28. We regret the loss of two members of our





Committee, Patrick S. Fitzgerald, Q.C. and George E. Wallace, Q.C., both of whom were elected Benchers in the fall of 1971 and could no longer serve the Committee because of a possible conflict of interest. The contribution to our Committee made by Mr. Fitzgerald and Mr. Wallace, both in terms of time and of knowledge, was invaluable. We have no doubt, however, that their experience will be of great value to the Legal Aid Committee of the Law Society. Our sincere thanks and best wishes are extended to them.

Because of the onerous responsibility placed on the members of this Committee we would truly appreciate the appointment of replacements for Mr. Fitzgerald and Mr. Wallace.

29. Almost from the inception of the Plan the Program Committee was headed by Thomas Callon, Q.C. and he is to a great extent responsible for its success today. Mr. Callon was recently appointed a Judge of the Supreme Court of Ontario and we wish to record our appreciation for the work done as Chairman of the Program Committee and for his assistance to this Committee during his term in that office.



30. The Committee would like to record with appreciation our opinion that the devotion and leadership of the Treasurer of the Law Society, the Chairman of the Legal Aid Committee, and the Director of Legal Aid for Ontario have been largely responsible for the success of the Plan.

All of which is respectfully submitted.

"John W. Brooke"

The Honourable Mr. Justice Brooke

"W.E.C. Colter"

His Honour Judge W.E.C. Colter

"Johnstone L. Roberts"

His Honour Judge Johnstone L. Roberts

"Francis E. Wigle"

Francis E. Wigle, Q.C.

"Elliott Stedelbauer"

Elliott Stedelbauer, Esq.

"Charles E. Hendry"

Professor Charles E. Hendry

"Anna Stevenson"

Anna Stevenson  
Secretary to the Committee

















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